

## **SUBCHAPTER N : CEDAR CREEK RESERVOIR**

### **§284.281. Definitions.**

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

**Cedar Creek Reservoir** - The lake near the Trinity River in Kaufman and Henderson Counties, approximately two miles south of the City of Kemp.

**Commercial system** - One or more facilities used for the disposal of sewage from establishments other than private dwellings, including but not limited to marinas, motels, business establishments, restaurants, bars, schools, churches, clubhouses, and resorts, and not operated under an individual or specific permit issued by the Texas Water Commission.

**Commission** - The Texas Water Commission.

**District** - The Tarrant County Water Control and Improvement District No. 1.

**District supplements** - District supplements to the standards published by the Texas Department of Health.

**Evapotranspiration beds** - That part of a septic tank system which must consist of two or more beds with drainage pipes that utilize evaporation and transpiration for the disposal of septic tank effluent.

**Evapotranspiration system** - Any subsurface system which utilizes surface evaporation and plant transpiration for the ultimate disposal of wastewater.

**Executive director** - The executive director of the Texas Water Commission.

**Holding tank** - A vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for delivery to an organized sewage disposal system.

**msl** - An abbreviation for mean sea level.

**Organized disposal system** - Any public or private system for the collection, treatment, and disposal of sewage operated in accordance with the terms and conditions of a permit from the Texas Water Commission.

**Private sewage facility** - All facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

**Septic tank** - A vented, watertight tank which serves as a sedimentation and sludge digestion chamber, which is placed between the house sewer and the soil absorption or evapotranspiration bed.

**Septic tank system** - A system for disposing of sewage through soil absorption or evapotranspiration, and consisting of the following components: the house sewer, the septic tank, and the soil absorption field or evapotranspiration beds.

**Sewage** - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

**Standards** - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules,

25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

**Subdivision -**

(A) A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or

(B) Any four or more adjoining lots or tracts, any of which is less than two acres in size.

**Substantial modification** - An alteration or series of alterations that increases the total volumetric capacity of the facility by 25% or more, or an increase in the flow rate into the facility, calculated in accordance with the standards, by 25% or more.

**§284.282. Regulated Area.**

The regulated area is the area for which these regulations apply. This area is defined as all the area bounded by a line with all points on that line being a distance of 2,000 feet from the nearest point on the 325 foot msl contour line, measured horizontally away from the reservoir. The regulated area also includes all the area of the lake bed to the 325 foot msl contour line, and all islands.

**§284.283. Discharge of Sewage Within the Regulated Area.**

All sewage disposal within the regulated area shall be in accordance with one of the following types of authorizations:

(1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;

(2) sewage discharged into private sewage facilities licensed in accordance with the regulations contained in this subchapter;

(3) sewage discharged into a private sewage facility registered in accordance with the terms and conditions of this subchapter;

(4) sewage discharged into a private sewage facility or commercial system existing on June 24, 1976, for so long as such private facility or commercial system either is operating properly and is not causing nuisance conditions or pollution or a threat to public health, or has not been substantially modified; or

(5) sewage removed from boats and other watercraft in accordance with applicable §§321.1-321.18 of this title (relating to Boat Sewage Disposal) and Article VI adopted by the District on July 15, 1986, covering disposal of waste from watercraft.

**§284.284. Licensing Functions.**

The Tarrant County Water Control and Improvement District No. 1 is designated by the commission to perform all licensing and enforcement functions of this subchapter. The district shall have the following powers:

(1) to make reasonable inspections of all private sewage facilities located or to be located within the area covered by this subchapter; and

(2) to perform all the duties necessary to meet the requirements of this subchapter.

**§284.284. Licensing Requirements for New Private Sewage Facilities.**

(a) Private sewage facilities installed after June 24, 1976, within the boundaries of the regulated area must meet the following requirements.

(1) A permit for construction must be obtained from the District before the construction of these facilities or systems commences. A license to operate will be issued after satisfactory completion and verification of construction.

(2) Residential lot sizing.

(A) Platted subdivisions served by a public water supply. Subdivisions of single family residences platted after the effective date of this subchapter, and served by a public water supply but utilizing individual subsurface absorptive methods for sewage disposal, shall provide for individual lots having surface areas of at least one-half acre, or large enough to have a duplicate system, whichever is greater.

(B) Platted subdivisions served by individual water systems. In subdivisions platted after the effective date of this subchapter for single family residences where each lot maintains in individual water supply well and sewage treatment system with a soil absorption system, the plat shall show the approved well location and a sanitary control easement around the well within a 150-foot radius in which no absorptive type sewerage system may be constructed. To minimize the possibility of the transmission of waterborne diseases due to the pollution of the water supplied for domestic use, each lot in a platted subdivision shall not contain less area than one acre, or be large enough to have a duplicate system, whichever is greater.

(C) Any such lot or tract platted and recorded between October 1, 1975, and the effective date of this subchapter must be at least 15,000 square feet in size and any lot or tract platted and recorded on or prior to October 1, 1975, must contain at least 4,000 square feet.

(D) Where multiple dwelling units are involved, the district shall determine the increased lot size necessary for a septic tank system or other private sewage facility to function properly.

(b) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to the "Standards" and the district supplements. These standards are available from either of the following Tarrant County Water Control and Improvement District No. 1 offices:

(1) Tarrant County Water Control and Improvement District No. 1, 800 East Northside Drive, P. O. Box 4508, Fort Worth, Texas 76106-0508; telephone: 817-335-2491; or

(2) Cedar Creek Reservoir Superintendent, Tarrant County Water Control and Improvement District No. 1, Route 1, P. O. Box 175, Trinidad, Texas 75163; telephone: 214-431-2814.

(c) Terms and procedures for license of new private sewage facilities and commercial systems are as follows.

(1) Any license for private sewage facilities and commercial systems issued under the authority of this subchapter will be for an indefinite period and may be transferred without fee to a succeeding owner provided the new owner applies to the district and provided the private sewage facility has not been substantially modified.

(2) Application forms for a permit to construct either a private sewage facility or a commercial system may be obtained from the district. In order to initiate an application, a completed application form together with the appropriate fee shall be filed with the district.

(3) The district will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable. After such inspections and tests and upon a finding by the district that construction can commence, a permit for construction will be issued.

(4) Upon a finding by the district that a private sewage facility or commercial system construction permit cannot be issued, the applicant shall be notified in writing within 30 days of that finding. The notification shall include the nature of the faults which prevent the issuance of a permit.

(5) After construction and upon a finding by the district that the private sewage facility or commercial system has been properly constructed, and that the use of same will not cause pollution or injury to the public health and is not in conflict with the terms and conditions of this subchapter and upon payment of appropriate fees, a license to operate the system will be issued.

(6) Upon finding by the district that operation of the private sewage facility or commercial system cannot be licensed, the applicant shall be so notified in writing within 30 days of that finding. The notification shall include the nature of the faults which prevent licensing.

#### **§284.286. Approval of Subdivision Plans for Private Sewage Facilities and Commercial Systems.**

(a) Any developer or other person interested in creating a subdivision using private sewage facilities and/or commercial systems must obtain approval from the district of his plan for sewage disposal, if all or part of the subdivision will be located in the regulated area. He must fulfill the following requirements.

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court of the county in which it is located.

(2) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the district.

(3) The developer shall inform each prospective buyer in writing:

(A) that a subdivision is subject to all of the terms and conditions of this subchapter;

(B) that a permit for construction will be required before any private sewage facility or commercial system can be constructed in the subdivision;

(C) that a license will be required for the operation of such a private sewage facility or commercial system; and

(D) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities or commercial systems have been defined.

(4) If an investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities or commercial systems, the prospective buyer shall be notified in writing.

(b) The district will cause to be prepared a percolation test profile of the entire subdivision, consisting of percolation tests of a representative number of proposed lots or tracts (as defined and approved by the district) to determine whether the subdivision can be served with private sewage facilities. These tests will be at the expense of the developer.

(c) By direction of the district, all or part of the tests may be performed by an engineering firm, soils testing laboratory, registered professional sanitarian, or similarly qualified person, with prior approval by the district. At the developer's request, such tests may be performed by the district with the district charging the developer as specified in §284.294 of this title (relating to Fee Schedule). The district will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the district will notify the developer of any areas not suitable for the use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

#### **§284.287. Existing Private Sewage Facilities and Existing Commercial Systems.**

(a) Private sewage disposal facilities and commercial systems existing within the regulated area before June 24, 1976, are not required to be licensed provided the facilities and systems are not causing pollution or injury to public health.

(b) If a system in existence before June 24, 1976, is found to be malfunctioning in such a manner as to cause nuisance conditions, pollution, or a threat to public health, such system shall be improved or replaced by the owner, and shall be licensed as a new facility or system in accordance with §284.284 of this title (relating to Licensing Requirements for New Private Sewage Facilities). The owner of such malfunctioning facility or system must take steps prescribed by the district to immediately alleviate problems caused by the malfunctioning facility or system and must submit an application for either a permit to construct a new facility, or system, or a permit to construct improvements to the malfunctioning facility or system within 30 days after receipt of written notification by the district that the existing facility or system is functioning improperly.

(c) Any owner wishing to modify an existing facility or system in any manner must notify the district 72 hours prior to such modification. If an owner of an existing facility or system desires on his own initiative to substantially modify such existing facility or system, he must obtain a permit to construct and license to operate such modified facility or system following the procedures prescribed in §284.284 of this title (relating to Licensing Requirements for New Private Sewage Facilities). Routine maintenance and repair of existing facilities may be accomplished without obtaining a permit or license.

**§284.288. Connection of Private Sewage Facilities and Commercial Systems to Organized Waste Collection, Treatment, and Disposal Systems.**

It is the policy of the legislature and the commission to encourage the development and use of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state. In order to implement this policy in the regulated area, the commission makes the following requirements.

(1) No license shall be issued for any private sewage facility when any part of the facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system capable of serving in lieu thereof; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized system with service capability is developed within 300 feet in horizontal distance from any part of a private sewage facility, that facility shall be connected to the organized system whenever feasible and legally possible.

**§284.289. Terms and Conditions for Granting Exceptions.**

The commission intends that the regulations contained in this subchapter shall be enforced but realizes that certain individual situations may require the granting of an exception to the requirements contained in the subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the district for its analysis of the specifics of the situation.

(2) The district shall make the necessary review and within 60 days either grant or deny the application. If an exception is denied, a statement setting out the reasons for the district's decision and what corrective measures, if any, could be undertaken to obtain licensure, shall be furnished.

**§284.290. Terms and Conditions of Appeal.**

(a) The commission intends that any disputes concerning the application of this subchapter to individual situations be negotiated to conclusion between the district and the individuals involved, if possible. However, any person aggrieved by an action or decision of the district may appeal to the executive director of the commission if the following terms and conditions are met.

(1) All of the appropriate steps required by the aggrieved person by the terms and conditions of the subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the district.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director of the Texas Water Commission, P. O. Box 13087, Austin, Texas 78711-3087, telephone: (512) 463-7898; with a copy of the statement sent to the district. The executive director will notify the district that an appeal has been filed and will affirm, reverse, or modify the decision of the district.

**§284.291. License Fees.**

(a) License fees will be in accordance with a fee schedule established by the district. These fees shall be paid to and collected by the district so long as the district remains the designated agent for the purposes and functions specified in this subchapter.

(b) The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the district for special services performed by the district. Percolation tests and other examinations will be performed by the district on a fee basis. These tests may also be performed by engineering firms or soil testing laboratories approved by the district.

**§284.292. Enforcement.**

(a) Criminal penalty (Texas Water Code, §26.214).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty for each act of violation and for each day of violation, to be recovered as provided in the Texas Water Code, Chapter 26.

(c) Revocation or Suspension of Licenses. Licenses issued under the authority of this subchapter may, for good cause, be revoked or suspended by the district. Prior to any action on the proposed revocation or suspension the licensee must be given reasonable written notice of the proposed action and be given an opportunity for a hearing. Owners of facilities for which licenses are revoked or suspended must immediately stop discharging sewage into such facilities upon written notification by the district.

**§284.293. Severability Clause.**

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the invalidity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

**§284.294. Fee Schedule.**

The district shall establish a fee schedule for the private sewage facilities regulatory program around Cedar Creek Reservoir and maintain a copy of such fee schedule at the district's offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the district and may, subject to applicable laws, be amended by the district from time to time.